



Avoid Estate Sale Scams

From the Office of Minnesota Attorney General Lori Swanson

Estate sale companies appraise, price, and sell the personal property of people who have passed away or wish to downsize their households. Estate sale companies routinely handle estates valued at thousands or tens of thousands of dollars, and they are required to be bonded in Minnesota. It can be difficult to sort out reputable estate sale companies from untrustworthy ones, and consumers are encouraged to take precautions when selecting and contracting with estate sale companies.

“Jane” is seeking assistance selling items and property that her recently deceased father left behind when he died unexpectedly. She locates an estate sale company on the internet that claims it has been in business for decades with thousands of satisfied customers. She contacts the company, and its representatives promise that its “experts” run professional and transparent estate sales so that their clients have nothing to worry about and are quickly paid within weeks. The company promises to provide detailed itemizations of all sales so that the value and sales of all of the property is transparent and easily documented. Jane is grieving and there is so much to do in the aftermath of her father’s sudden death, that she immediately agrees to let the company operate the estate sale without closely reviewing the contract or shopping around.

Three months after the estate sale, Jane still has not received the proceeds of the estate sale, which she was hoping to use to defray some of the costs of the funeral. She has received only minimal paperwork regarding what items were sold and for how much, and the company, which initially made vague excuses about the “delayed” payment and accounting documents, has now stopped returning her calls altogether. Now Jane is struggling to find recourse to

resolve the matter, and is considering having to hire a lawyer which she fears will only add more expense and worry to her situation.

The Attorney General’s Office provides the following tips for people seeking the services of an estate sale company:

Shop Around. Interview more than one company before you make your decision who to hire. Take your time and compare the companies’ rates and terms. You may wish to obtain a recommendation from a realtor, banker, or other trusted source.

Research the Company. Do your homework on a given company before you agree to sign a contract. Find out how long the company has been in business in Minnesota, and whether its employees have specialized credentials or are members of professional associations. Ask the company for references of multiple clients and contact them to inquire about the company’s prior performance.

Bonding and Insurance. Minnesota law (Minn. Stat. § 325E.70) requires that an estate sale company be bonded, and some companies may represent in their marketing materials that they are bonded and insured. Ask the company for copies of the bond and any applicable insurance policy so that you may review them. An estate sale conductor bond must be approved and endorsed by a county treasurer, and filed in a county treasurer’s office. Ask the county treasurer’s office to confirm any details. (The bonding requirement does not apply to licensed certified public accountants or licensed attorneys.)

Review the Contract. Take time to closely review the terms and conditions in the contract. Make sure that each promise the company has made to you orally is set forth in plain language in the contract. Remember, the company may not honor any promise that is not specifically spelled out in writing in the contract. If a term is missing or unclear, demand that the contract be

revised before signing it. Don't be rushed and make sure you **get everything in writing**. If there are provisions that you do not understand or are concerned about, you may wish to consider having an advisor or an attorney review the contract for you.

Compare Rates and Fees. Closely scrutinize the company's commission rates, and inquire about any and all fees, including moving expenses, appraisals, security, trash removal, cleaning, advertising, or other sale related expenses. Commissions can range as high as 30-40% and customers may not be aware that they can be charged additional fees on top of that. Request all the details related to proposed commissions and fees, and shop around and compare them to the rates of other companies to make sure that you are getting the best deal.

Pricing the Items and Operating the Sale. Before agreeing to the contract, discuss in detail how prices will be set and insist on having the authority to change prices or remove items from the sale if you do not agree with the price set by the company. Demand that prices marked on items will not be discounted except as provided in your contract or with your express consent. Insist that you be given a subtotal of sale proceeds at the end of each sale day. Require that the company and staff working the sale obtain your express consent before purchasing sale items or bringing in their own items to sell at your sale. You may wish to reserve the right to be present at the sale, or to have a neutral third-party monitor the sale on your behalf.

Demand Immediate Payment. Before you sign any contract, discuss how and when you will receive payment, and insist on being paid your share of cash proceeds immediately after the sale has concluded. Insist that the contract provide specific deadlines by which the company must make payment and supply sale-related documentation, and provide penalties for the company's failure to comply. Insist that the contract specifically bar the company from utilizing your share of sale proceeds for any purpose prior to payment.

Require the Company to Provide Detailed Records and Documentation. Before hiring a given company, insist that following the sale you will be given an itemized list identifying each item or group of items marked for sale and the actual price collected. Insist that following the sale you be given sales receipts and documentation of credit card and check transactions to substantiate the sales process.

Consumers who would like to check on a company's status with the Better Business Bureau may contact the Bureau as follows:

Better Business Bureau

220 South River Ridge Circle

Burnsville, MN 55337

651-699-1111

800-646-6222

www.bbb.org

For more information, or to file a consumer complaint, contact the Attorney General's Office as follows:

Office of Minnesota Attorney General

Lori Swanson

445 Minnesota Street, Suite 1400

St. Paul, MN 55101

651-296-3353 or 800-657-3787

TTY: 651-297-7206 or 800-366-4812

www.ag.state.mn.us